

REMARKS

This application has been carefully reviewed in light of the Office Action dated June 30, 2005. Claims 1-29 remain pending in this application. Claims 1, 10, and 23 are the independent claims. Favorable reconsideration is respectfully requested.

On the merits, the Office Action rejected Claims 1-18 and 21-25 under 35 U.S.C. § 103(A) as being unpatentable over Dunn et al. (U.S. Patent No. 5,758,288; hereinafter "Dunn") in view of Hillis (U.S. Patent No. 5,303,297; hereinafter "Hillis"). The Office Action also rejected Claims 20 and 27-29 under 35 U.S.C. § 103(a) as being unpatentable over Dunn in view of Hillis and further in view of McLampy et al. (U.S. Patent No. 5,566,236; hereinafter "McLampy"). Applicant notes that the Office Action fails to state a rejection of Claim 19, which Applicants consider to be allowable if no rejection is forthcoming.

Applicant respectfully traverses the rejections for at least the following reasons:

Dunn and Hillis fail to recite or suggest the mobile telephone transmits that it received the first signal via a second signal to a base station of the telecommunication system which switches over to a different user rate in response to the reception of the second signal. Dunn recites an electrical signal generated by the mobile unit that corresponds to mobile unit position, i.e., in or out of a

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zone. (See, e.g., Col. 15, lines 63-68) Dunn then recites that based on that position information charges can be determined. (See, e.g., Col. 16, lines 1-8) Dunn's signal only conveys position information and decides which rate based on customized geographic zones. Dunn fails to recite or suggest transmitting a second signal indicating receipt of a first signal.

Hillis fails to disclose that which Dunn lacks, namely that the mobile telephone transmits that it received the first signal via a second signal to a base station of the telecommunication system which switches over to a different user rate in response to the reception of the second signal. Rather, as stated in the Office Action, Hillis teaches dynamically adjusting rates based on location or capacity and not based on whether or not a signal is received. Thus Applicant respectfully traverses the § 103 rejection of Claim 1.


Claims 10 and 23 recite a system and a fixed station, respectively, substantially corresponding to the method of Claim 1 and are believed patentable for at least the same reasons.

Claims 2-9, 11-18, 20-22, and 24-29 depend from one or another of the independent claims discussed above and are believed patentable for at least the same reasons. In addition, Applicant respectfully believes Claims 2-9, 11-18, 20-22, and 24-29 to be independently patentable and request separate consideration of each claim.

In view of the foregoing remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached by telephone at the number given below.

Respectfully submitted,

By 

Aaron Waxler,

Reg. 48,027

(914) 333-9608

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